

EXHIBIT E

CONFIDENTIAL

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF OKLAHOMA
3
4 DONNA K. SOUTTER)
5 on behalf of herself and)
6 those similarly situated,)
7)
8 Plaintiff(s),) CIVIL ACTION NO.
9)) 3:10-cv-00107(REP)
10 -vs-) (Pending in the Eastern
11)) District of Virginia,
12 EQUIFAX INFORMATION) Richmond Division)
13 SERVICES, LLC,)
14)
15 Defendant(s).)
16)
17 _____)

18 FOR ATTORNEY'S EYES ONLY

19 PROTECTIVE ORDER

20 DEPOSITION OF MARK JOHNSON

21 TAKEN ON BEHALF OF

22 THE PLAINTIFF(S)

23 IN OKLAHOMA CITY, OKLAHOMA

24 ON JUNE 12, 2013

25 10:02 A.M. - 2:23 P.M.

26 REPORTED BY: SHELLEY MARBURGER, CSR

Page 1

CONFIDENTIAL

1 we know that those public records include civil
2 judgment, bankruptcy and civil lien records.
3 Right?

4 A. Correct.

5 Q. Does your company also collect criminal
6 records?

7 A. No.

8 Q. So LexisNexis Risk Data Retrieval
9 Services only obtains civil records?

10 A. No.

11 Q. What else do you obtain?

12 A. We obtain bankruptcy and we obtain
13 property data, certain types of tax assessor, deed
14 and mortgage.

15 Q. Some jurisdictions have utility liens
16 reported within credit reports. Does your company
17 obtain and sell those also?

18 MR. RAETHER: Objection to form.

19 A. That's not a type of lien that we
20 collect.

21 Q. (By Mr. Bennett) And your declaration
22 says that your title is vice president of data
23 services. Correct?

24 A. Correct.

25 MR. RAETHER: Objection to form.

Page 7

CONFIDENTIAL

1 A. No.

2 Q. Did you do anything else to prepare for
3 the deposition today?

4 A. Reviewed the analysis that we did on the
5 data, I believe that you obtained under FIFO
6 freedom of information from the Supreme Court in
7 Virginia, so reviewed our analysis of that.

8 Q. Anything else?

9 A. Reviewed a few documents from that
10 review.

11 Q. What documents?

12 A. There was a spread sheet that was
13 summarizing the data analysis.

14 Q. Anything else?

15 A. Not that comes to mind.

16 Q. How long have you worked for LexisNexis
17 Risk Data Retrieval Services, LLC?

18 A. That entity, I believe was created about
19 four years ago, four or five years ago.

20 Q. And you have worked for that entity for
21 that entire period since it was created?

22 A. I'm not aware of the time line of that
23 entity. I am aware that we were reorganized under
24 that entity about four or five years ago.

25 Q. And prior to the reorganization of that

Page 12

CONFIDENTIAL

1 entity for whom were you employed?

2 A. I believe the entity was Hogan
3 Information.

4 Q. And then Hogan was purchased by
5 LexisNexis?

6 A. Correct.

7 Q. How long were you employed for Hogan
8 before that purchase?

9 A. I believe I was employed under Hogan from
10 like '97 until maybe '08 or '09.

11 Q. And prior to '97 how were you employed?

12 A. Prior to Hogan, I -- at the -- prior to
13 Hogan, I believe I worked for myself as a
14 consultant.

15 Q. And what services did you consult upon?

16 A. Programming.

17 Q. What type of programming?

18 A. Well, it was a programming language
19 called Clipper.

20 Q. Did you have a expertise in any other
21 system or program language besides Clipper?

22 A. That was primarily it. We're going way
23 back.

24 Q. We are? You go back to my I.T.
25 education.

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1 Q. Well, right now I'm asking you,
2 personally.

3 A. Yeah. So, I mean, are you --

4 Q. Not what --

5 A. I mean, personally, I know that --

6 Q. Well, have you ever had --

7 A. Go ahead.

8 Q. I'm sorry. Go ahead.

9 A. You were going to clarify something.

10 Q. Sure. I'm going to ask you, as to the --
11 what the company knows, but right now I'd like to
12 know what you personally know through your own
13 observations as to how judgment information is
14 collected about Virginia judgments.

15 A. For what period of time?

16 Q. Well, how about presently. How does
17 LexisNexis today collect judgment information and
18 judgment disposition information?

19 A. We collect it through manual collection,
20 the filings are collected manually through our
21 laptop collection effort that we would call civil
22 acquisition. And the dispositions are collected
23 from a web scrape that we call civil automation.
24 So it's a combination of the two.

25 Q. And when you -- So let's talk about the

Page 29

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1 Q. And have you or has LexisNexis tried to
2 buy the bulk feeds from the executive secretary in
3 2012 or 2013?

4 A. Not that I'm aware of.

5 Q. Has LexisNexis tried to buy those -- the
6 bulk feed judgment information from the Virginia
7 courts in 2011?

8 A. Not that I'm aware of.

9 Q. Why not?

10 A. If I recall, the judge or the supreme
11 court stating or making it clear that the bulk
12 feed would no longer be available.

13 Q. And that was in 2009?

14 A. That sounds about right.

15 Q. And so it's remained consistent, the
16 manner of which LexisNexis collects the actual
17 judgment filings has remained consistent and
18 uniform since that date?

19 A. As far as manual collection of new
20 filings, correct.

21 Q. And then judgment dispositions, what does
22 that mean to you by the way? What are judgment
23 dispositions?

24 A. Satisfaction or a vacate.

25 Q. What about an appeal of a judgment?

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1 A. We don't collect those.

2 Q. What about a judgment that is later
3 dismissed?

4 A. A judgment that's dismissed is considered
5 a vacate.

6 Q. And so is there a uniform manner in which
7 you currently collect dismissals, vacatures or
8 satisfactions?

9 A. Yes.

10 Q. How long has that uniform collection
11 method been in place as LexisNexis?

12 A. Since about the same time. When the bulk
13 feeds stopped, we went to manual collection for
14 the filings and web scrape collection for the
15 satisfactions and vacates.

16 Q. Now, for the collection of satisfactions,
17 vacates how does your procedure differ or vary by
18 particular Virginia court jurisdiction? So
19 Newport News General District Court versus
20 Petersburg District Court, for example?

21 A. I'm probably not aware of any differences
22 at that level. I'm -- Court by court collection,
23 there probably is some variance in how court
24 collection occurs in a manual process from a web
25 scrape process it should be consistent.

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1 A. To some degree. I mean, personal
2 knowledge to me is formed from a lot of different
3 awarenesses and learnings and it's not always just
4 the direct hands-on experience.

5 (Plaintiffs' Exhibit No. 3 marked
6 for identification purposes and
7 made a part of the record.)

8 Q. (By Mr. Bennett) Then let's go into the
9 second -- or I mean, the first dec again, Exhibit
10 2.

11 A. Okay.

12 Q. And I'm going to skip to Page 3 of --
13 this is the first -- this is the 2010 exhibit, I'm
14 going to skip to Page 3. So 2003 -- I mean, 2009,
15 it's Page 3, Paragraph 6, your first declaration
16 stated that, "Until May of 2009, the Supreme Court
17 of Virginia made available information regarding
18 judgments and dispositions through regularly
19 scheduled Bulk Feeds." And that's true. Correct?

20 A. Yes.

21 Q. And how far back before May, 2009 was
22 this the procedure for LexisNexis to pick up
23 judgments from the Virginia District Courts?

24 A. I recall that began in about 2005.

25 O. So between 2005 and May of 2009 there was

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1 one uniform method used by LexisNexis to pick up
2 judgment and filings in case dispositions, and
3 that was the bulk feed from the Supreme Court of
4 Virginia. Correct?

5 A. Not entirely. No.

6 Q. Not entirely. What was different about
7 it? What was wrong about what I just said?

8 A. Well, I recall that we collected vacates
9 through our manual process and I recall that the
10 district courts were a different process than the
11 -- I forget the name of the other court system.

12 Q. Right. The circuit court, but we're not
13 talking about that. Right? Right now this
14 declaration and my question is limited to the
15 Virginia District Courts.

16 But this paragraph, Paragraph 6, says
17 that you were "advised," the last sentence, "by
18 personnel at the Virginia Supreme Court that the
19 disposition date shown in some records was the
20 date a satisfaction was recorded, or the date a
21 judgment was vacated by order of the court or
22 after an appeal." Do you see that?

23 A. I do.

24 Q. And do you have any personal knowledge
25 that that's what you were told by the -- that

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1 about the information in these declarations and I
2 think that's going to be the end of my day. But I
3 want to be very clear, and I'd like it if you
4 would be very clear, in making any distinctions
5 between the way that you pick up information on an
6 ongoing regular basis versus in response to an
7 inquiry by LexisNexis or a consumer directly or
8 Equifax, TransUnion or Experian about a specific
9 case. So I'm not talking about what you do when a
10 dispute is received or when you're contacted about
11 a specific case, I am only talking about the
12 ordinary process by which LexisNexis, on an
13 ongoing regularized basis, picks up judgments from
14 general district courts or picks up dispositions
15 of judgments from general district courts. Do you
16 understand?

17 A. I do.

18 Q. I am, again, not talking about the
19 individualized dispute pick-ups. And so is it
20 your testimony that LexisNexis requested and
21 received from, or believed it was receiving from
22 the Virginia Supreme Court vacates or dismissals
23 prior to May of 2009?

24 A. My recollection is we were aware that
25 vacates were not a part of the feed.

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1 Q. And then is it -- do you have personal
2 knowledge that your subcontractors on a regular
3 basis, not based on disputes, but on a regular
4 basis were tasked with gathering all vacatures or
5 dismissals from the courts manually --

6 A. That's my understanding.

7 Q. -- prior to May of -- Okay.

8 And then in Paragraph 7 of this Exhibit
9 2, it says, the LexisNexis "also conducted
10 standard quality assurance reviews of the Bulk
11 Feeds and monitored the volumes of case
12 dispositions relative to civil judgements and
13 other statistics" with -- "for consistency with
14 its historical experience." And then the
15 "methodologies were conducted routinely."

16 Are those methodologies, data analysis,
17 statistics, where are those kept and stored or
18 archived?

19 A. Within the list of departments document
20 process repository.

21 Q. And the last sentence in Paragraph 7
22 says, "To supplement known gaps in the Bulk Feed
23 related to vacates" you "employed independent
24 contractors to conduct in-person reviews as
25 described below." Do you have any personal

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1 knowledge about how often or how regularized the
2 check for vacates was prior to May of 2009?

3 A. Can you clarify that? I'm not quite sure
4 what you're asking.

5 Q. Sure.

6 MR. RAETHER: Turn the page. I think
7 he's on the wrong page, Len.

8 Q. (By Mr. Bennett) Page 4.

9 A. Oh, okay.

10 Q. The first full sentence at the top.

11 A. And is there a question associated with
12 that?

13 Q. Yes. Do you know -- Is it your testimony
14 or do you have personal knowledge that between
15 2005 and May of 2009, LexisNexis had a procedure
16 in place to have its subcontractors check every
17 court house on some regular basis for every
18 vacate? I'm recognizing that it might not have
19 been 100-percent successful but that the objective
20 was to try to pick up every vacate from every
21 court house in Virginia.

22 MR. RAETHER: Objection to form.

23 A. Yeah. I mean, the -- again, "everything"
24 and "always," I always avoid those statements.
25 Directionally, our intent was to collect the

Page 106

CONFIDENTIAL

1 vacates that we knew were not in the bulk feed. I
2 can further clarify that as we had no customers
3 for that feed until we acquired customers from
4 ChoicePoint in 2007. And at that point in time it
5 became more important for us to collect vacates
6 more diligently. So prior to the time that we had
7 customers for the data, we may not have been as
8 diligent in collecting vacates. We have no
9 contractors in the state.

10 Q. (By Mr. Bennett) Roughly, how many
11 contractors do you have today in the state?

12 A. I'm not entirely sure. I would -- I can
13 surmise that it's -- I don't know exactly.

14 Q. What would you surmise it to be?

15 A. 10 to 20.

16 Q. And I understand you don't know the exact
17 number, but how has that number varied, generally,
18 since 2005?

19 A. I don't know. Since 2005, we had zero in
20 2005. At some time in 2007, we had contractors to
21 cover the state; how it's changed since then,
22 probably not much.

23 Q. But today you pick up every single
24 judgment manually?

25 A. Every filing. Correct.